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**HERSHKOVITZ &  
ASSOCIATES**

**Fax**

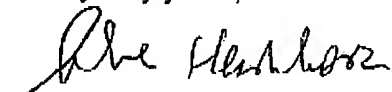
<b>To:</b> Examiner Bernard Lipman	<b>From:</b> Abe HersHKovitz
<b>Fax:</b> 571-273-1105	<b>Date:</b> November 10, 2004
<b>Phone:</b> 571-272-1105	<b>Pages:</b> 5
<b>Re:</b> Petition Filed in 10/023,677	<b>OurRef</b> P06013

☒ **Urgent**    ☒ **For Review**    ☒ **Please Comment**    ☐ **Please Reply**    ☐ **Please Recycle**

Dear Examiner Lipman:

Please find attached a copy of a Petition filed August 2, 2004 under 37 CFR 1.181, along with a copy of the PTO Receipt evidencing filing of the Petition in application 10/023,677. To date, Applicant has not received a decision on this Petition. In fact, the petition does not even appear as a scanned in document in this file. Any assistance you can provide in having the PTO make the petition of record and render a decision on this Petition would be greatly appreciated. You may wish to refer to application 09/992,590, in which Examiner Doroshenk signed off on a PTO-1449 in a case which has similar proprietary material issues.

Very truly yours,

  
Abe HersHKovitz

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : James A. Kendrick et al

Appln. No. : 10/023,677

Commissioner for Patents

Attn: Stephen G. Kunin  
DEPUTY COMMISSIONER FOR  
PATENT EXAMINATION POLICY

Filed : February 14, 2002

For : CONTINUOUS SLURRY POLYMERIZATION VOLATILE REMOVAL

**PETITION UNDER 37 C.F.R. 1.181  
REQUESTING SUPERVISORY REVIEW BY COMMISSIONER**Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir :

This is a Petition for Supervisory Review of the handling of the Petition to Expunge under 37 CFR 1.59(b). Applicant's representative has attempted to resolve this matter at different organizational levels within the PTO, all to no avail. Thus, intervention by the Deputy Commissioner for Patent Examination Policy is respectfully requested.

Applicant filed on May 12, 2003, a Petition under 37 CFR 1.59(b) to Expunge certain proprietary material filed on September 19, 2002, which Petition was granted on September 26, 2003 along with an indication that the proprietary material was expunged and destroyed.

Additionally, Applicant filed a copy (under seal in accordance with MPEP 724.02) of

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the same proprietary material on July 18, 2003, along with a Petition requesting that the proprietary material be expunged if found by the Examiner to not be important to the examination of the claims. The above-identified application is awaiting examination.

Thus, it is not known at this point if the proprietary material has been handled properly. As a precautionary matter, in view of the improper handling by the PTO of proprietary material filed in related applications, Applicant is filing this petition to ensure that the proprietary material will not be released to the public. Please find reproduced below the relevant portion of PTO's own policy as announced in the OG Notice of May 18, 2004:

In general, patent applications, and papers related to the application, are scanned and maintained in an IFW. Application documents that are not scanned include documents that the United States Patent and Trademark Office (Office) is unable to scan (e.g., certain photographs and documents submitted in electronic form, such as the Computer Readable form for a Sequence Listing) and documents that are clearly marked and submitted in compliance with MPEP 724.02. Application documents that are not scanned are maintained in an artifact folder, and are not available as part of the IFW in the Patent Application Information Retrieval (PAIR) system. If the application file and contents are available to the public pursuant to 37 CFR Secs. 1.11 or 1.14, any materials submitted pursuant to MPEP 724.02 will be in an artifact folder and will be released to the public with any other application papers if a petition to expunge (37 CFR Sec. 1.59) was either filed and denied, or not filed, by the time the application was allowed or a notice of abandonment is mailed. With the mailing of the notice of allowance or notice of abandonment, the examiner will review the patent application file and determine if a petition to expunge is in the file but not acted upon. If a petition to expunge was dismissed as being premature since the application was not yet allowed, the petition will be acted upon again, even if applicant had previously been required to resubmit the petition after allowance. If the application is being allowed, and the information is found to not be important to a reasonable examiner in deciding on patentability (see MPEP 724.04(A)-(C)), the petition to expunge will be granted and the information will be expunged.

The Commissioner is requested to take steps to ensure that the PTO does not violate

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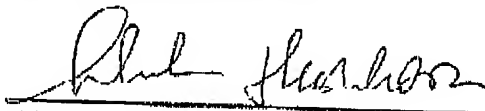
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its own policy by:

- (1) scanning into IFW proprietary material which was clearly marked and submitted in compliance with MPEP 724.02, rather than maintaining the material in an artifact folder;
- (2) failing to have the Examiner grant the Petition to Expunge filed on July 18, 2003 at the time of allowance of the application, if the Examiner does not find the proprietary material to be important to allowability of the claims;
- (3) failing to expunge the proprietary material from the file at the time of allowance of the application; and
- (4) releasing a copy of the proprietary material to a member of the public.

While this Petition is not believed to require a fee, the Commissioner is authorized to charge any necessary fees to deposit account 50-2929.

James A. Kendrick et al



Abraham Hershkovitz

Reg. No. 45,294

August 2, 2004  
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PATENT, TRADEMARK &amp; COPYRIGHT CAUSES

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Date: August 2, 2004

File In: OIPE

In the matter of : **CONTINUOUS SLURRY POLYMERIZATION VOLATILE REMOVAL**

Applicant: James A. Kendrick et al

Application No.: 10/023,677

Filed: February 14, 2002

Docket No.: P06013

Issued: \_\_\_\_\_

Patent No.: \_\_\_\_\_

The Patent and Trademark Office (PTO) date stamp hereon is an acknowledgement that, on the date indicated, the PTO received the following:

- |   |  |
|---|--|
| <input type="checkbox"/> Amendment _____                              | <input type="checkbox"/> Claim of Priority                                 |
| <input type="checkbox"/> Executed Assignment and Cover Letter         | <input type="checkbox"/> Certified Copy of _____                           |
| <input type="checkbox"/> SES Assertion                                | <input type="checkbox"/> Declaration <input type="checkbox"/> Supplemental |
| <input type="checkbox"/> Request for Extension of Time                | <input type="checkbox"/> Executed <input type="checkbox"/> Unexecuted      |
| <input type="checkbox"/> Fee Filing                                   | <input type="checkbox"/> Transmittal Letter                                |
| <input type="checkbox"/> Recording                                    | <input type="checkbox"/> Patent Application                                |
| <input type="checkbox"/> Issue  | <input type="checkbox"/> Provisional <input type="checkbox"/> Reexam       |
| <input type="checkbox"/> Extension                                    | <input type="checkbox"/> Reissue <input type="checkbox"/> Design           |
| <input type="checkbox"/> _____  | <input type="checkbox"/> Continuation <input type="checkbox"/> CIP         |
| <input type="checkbox"/> Fee Transmittal Form                         | _____ pages  |
| <input type="checkbox"/> Maintenance Fee Payment                      | _____ claim _____ independent  |
| <input type="checkbox"/> PTOL-85B Issue Fee                           | _____ sheets of drawings   |
| <input type="checkbox"/> Letter to Draftsman                          | _____ figures  |
| <input type="checkbox"/> Design Application Transmittal Form          | <input type="checkbox"/> IDS form PTO-1449                                 |
| <input type="checkbox"/> Utility Application Transmittal Form         | <input type="checkbox"/> References <input type="checkbox"/> as attached   |
| <input type="checkbox"/> Provisional Application Cover Sheet          | <input type="checkbox"/> as listed on reverse                              |
| <input type="checkbox"/> CPA Request Transmittal Form                 | <input type="checkbox"/> Certification under 1.97(e)                       |
| <input type="checkbox"/> RCE Transmittal Form including Submission    | <input type="checkbox"/> Self-addressed post card                          |
| <input type="checkbox"/> Cover Letter                                 | <input type="checkbox"/> Certificate of Mailing (C-O-M)                    |
| <input type="checkbox"/> Check No. _____ for _____                    | <input type="checkbox"/> Power of Attorney by Assignee                     |
| <input type="checkbox"/> Rule 53b and 53f Letter for Unexecuted Appl. | <input checked="" type="checkbox"/> <u>Petition under 37 CFR 1.181</u>     |
| <input type="checkbox"/> _____  | <input type="checkbox"/> _____   |